

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 629-C  
Case No. 88-16C  
(PUD @ 901 New York Avenue, N.W.)  
October 18, 1993

By Z.C. Order No. 629, dated September 11, 1989, the Zoning Commission for the District of Columbia approved an application of Jerome Golub Realty and the Willco Construction Company, pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

The application was for consolidated review of a planned unit development (PUD) for lots 18-20, 23, 27-31, 804-806, 816-819, 821, 823, 827-831, 835-837, and 840-852 in Square 372 located at 901 New York Avenue, N.W.

The PUD approval was for the construction of a mixed-use commercial building, containing office and retail uses, to a height of 130 feet, a floor area ratio (FAR) of 9.5, and a lot occupancy of eighty-six (86%) percent.

By Z.C. Order No. 629-A dated June 11, 1990, the Zoning Commission approved modifications to Condition No. 8 of Z.C. Order No. 629 regarding changes to the window mullions, the glass, the awnings and the granite; and Condition No. 9(b) concerning adjustments to the fenestration.

By Z.C. Order No. 629-B, dated May 13, 1991, the Zoning Commission extended the validity of Z.C. Order Nos. 629 and 629-A for two years; that is, until October 13, 1993. Prior to the expiration of that time, the applicants shall file an application for a building permit; with construction to begin on or before October 13, 1994, pursuant to 11 DCMR 2406.8 and 2406.9.

By letter dated July 19, 1993, the counsel for the applicants filed a motion requesting the Commission to further extend the validity of Z.C. Order Nos. 629, 629-A and 629-B for three years, pursuant to 11 DCMR 2406.10.

The motion summarizes the applicants basis for a three-year extension request as follows:

**A. Actions by Applicant Pursuant to PUD Approval**

1. The applicant has already provided \$860,000 to the 919 L Street Tenants Association as part of its amenity package. The applicants' letter to the Commission verifying such payment, dated July 14, 1989, is in the record of this case as Exhibit 97. Such funds were provided up front in the anticipation that the 901 New York Avenue PUD would proceed expeditiously. Given current market trends, as further detailed below, a time extension is necessary to continue to look for a lead tenant so that the up-front amenity funds are not lost.
2. In addition to providing the funds to the 919 L Street Tenants Association, the applicants committed as part of their amenity package to rehabilitate 149 units of D.C. owned property under the Homestead Program. Even though the applicants have not yet applied for a building permit for the PUD, they have begun the rehabilitation of the housing units. As noted in an affidavit of Richard S. Cohen, to date, 20 units have been completed and 13 more have been credited as completed, for a total of 33 units.
3. The cost of these renovations and the acquisition of 919 L Street, N.W. to date has exceeded \$1,640,000.
4. The applicants have entered into an agreement with the National Park Service and the National Park Foundation regarding Reservations 70 and 175. Under the Agreement, the applicants have agreed to construct improvements in Reservation No. 175. Further, in lieu of maintaining Reservations 70 and 175, the applicants have agreed to pay to the National Park Foundation \$50,000 as an endowment for the continued maintenance of those reservations.

**B Market Conditions and Due Diligence**

1. The applicants have not proceeded with construction since the PUD's approval solely because of unfavorable market conditions. These conditions have placed a halt on almost all new private construction projects in the past two years. The applicants have been unable to secure financing to allow the project to proceed without a lead tenant in place and the project substantially pre-leased. As the affidavit of Richard S. Cohen states, the applicants have been continuously marketing the project for a lead tenant since project approval.

2. The applicants believe, and the amenities already provided, confirm that the proposed project will make a worthwhile contribution to the City, Advisory Neighborhood Commission (ANC) 2F (the project and the off-site amenity at 919 L Street were previously located in ANC 2C) and the development of the East End. The applicants, in good faith, have made substantial housing contributions in reliance upon the Zoning Commission's approval of this PUD. At the same time, the applicants have continuously marketed this project for a lead tenant.

The applicants, by an attachment to its letter, certified that Advisory Neighborhood Commission (ANC) 2F was served a copy of the extension request on July 19, 1993.

By letter dated September 7, 1993, ANC-2F supported the applicants' request to extend the validity of the PUD.

The District of Columbia Office of Planning (OP), by memorandum dated August 2, 1992 (intended to read 1993); indicated that the zoning of the site has changed from HR/C-3-C and C-3-C to DD/C-3-C since the PUD was approved before of the enactment of the Downtown Development District (DDD) regulations. The promulgation of the DDD regulations were to help accomplish the land use and development policies of the Comprehensive Plan relating to various subareas of the downtown. The overall goals of these DDD regulations are to create a balanced mixture of uses -- retail, hotel, residential, entertainment, arts, and cultural; and to guide and regulate office development.

The OP memorandum further indicated that the Generalized Land Use Map of the Comprehensive Plan approved in 1985 includes the subject property in the mixed-use high density commercial/high density residential land use category. The Comprehensive Plan Amendments Act of 1989, which became effective on May 23, 1990, did not change the land use classification of the site, nor did Council Resolution 9-275, dated July 7, 1992, which "corrected" the Generalized Land Use Map. Overall, the classification has not changed since the Zoning Commission approved this application.

The OP added that the subject PUD would comply with the overall intent and purpose of the DD District because of the proposed mix of office, residential and retail uses and that given the time required for the applicants to secure financing and a major tenant for the project, the Office of Planning recommended that the Zoning Commission grant the applicants' request to extend the deadline for the filing of an application for a building permit to October 13, 1995, and to extend the deadline for commencing construction to October 13, 1996.

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Pursuant to Section 2406.10 of the Zoning Regulations, the Commission may extend the validity of a PUD approval for good cause shown upon a request being made before the expiration of the approval.

On September 13, 1993 at its regular monthly meeting, the Zoning Commission considered the applicants' request for a three-year extension of the validity of Z.C. Order Nos. 629, 629-A and 629-B, and concurred with the recommendation and position of OP and ANC-2F. The Commission considered the applicants' request for a three-year extension as opposed to a two-year extension, and decided to extend the validity of the PUD for two years instead of three years.

The Commission determined that an extension of the validity of the PUD is reasonable and would not adversely affect any party or person.

The Commission believes that its proposed action to grant the request is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital, as amended.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders that the validity of Z.C. Order Nos. 629, 629-A and 629-B be **EXTENDED** for a period of **TWO YEARS**; that is, until October 13, 1995. Prior to the expiration of that time, the applicants shall file an application for a building permit, as specified in 11 DCMR 2406.8 and construction to start on or before October 13, 1996.


Vote of the Commission taken at the monthly meeting on September 13, 1993 3-0: (John G. Parsons, William L. Ensign and Maybelle Taylor Bennett, to extend for **TWO YEARS** - Jerrily R. Kress and William B. Johnson, not voting having not participated in the decision).


This order was adopted by the Zoning Commission at the public meeting on October 18, 1993 by a vote of 3-0: (John G. Parsons and Maybelle Taylor Bennett to adopt, and William L. Ensign to adopt by absentee vote - William B. Johnson and Jerrily R. Kress not voting not having participated).

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In accordance with 11 DCMR 3028, this order is final and effective  
upon publication in the District of Columbia Register; that is, on

NOV 06 1993

  
MAYBELLE TAYLOR BENNETT  
Chairperson  
Zoning Commission

  
MADELIENE H. ROBINSON  
Director  
Office of Zoning

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